In the High Court of Uttaranchal, at Nainaital.

Criminal Misc. Application No. 555 of 2006

1- Kishan S/o Chajju

2- Moti S/o Kishan

Both R/o Mohamadpur Bujurg,

P.S. Laksar, District Haridwa ----- Applicants.

Versus

1- State of Uttaranchal

2- Rishi Pal S/o Chajju, R/o Mohamadpur Bujurg,

P.S. Laksar, District Haridwar ... Respondents.

Sri Sanjeev Singh, learned counsel for the applicants.
Sri Rajeev Mohan, learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been filed by the applicants, who are accused in Sessions Trial No. 409/2005, State Vs. Kishan and another, pending before the Additional Sessions Judge/IInd F.T.C., Haridwar, for quashing the proceedings of the Sessions Trial.

2. Brief facts of the case, as emerged out from the record, are that one F.I.R. was lodged by the respondent No.2 on 23-4-2004 with regard to the incident, which took place on 13-4-2004 U/Ss 323, 308, 325, 505 I.P.C. The Police investigated the matter and after completion of the investigation submitted charge sheet against the accused/applicants. After the submission of the charge sheet, the case was committed to the court of Sessions and the learned Sessions Judge, vide order dated 3-5-2006 framed the charge against the applicant U/Ss 323/34, 325/34, 308/34, and 504/34 I.P.C. This petition U/S 482 Cr.P.C. has thus been filed to quash

the criminal proceedings pending against the applicants.

4- Heard learned counsel for the applicants, learned A.G.A. and perused the record.

5- Having considered the arguments advanced by the learned counsel for the applicants, I do not find any abuse of process of court in this case. The charge against the applicants has been framed by the court of Sessions and now the prosecution has to adduce the evidence before the court of Sessions where the trial is pending.

6- I am not supposed to deliver any premature judgment in this case, where the evidence is still incomplete and hazy and yet to be collected by the trial Judge. I am also not supposed to embark upon the enquiry with regard to the credibility of the evidence. Since the disputed question of fact is involved in this case, therefore, any decision passed by me would render a premature decision at this stage.

7- The petition, therefore, lacks merit and is liable to be dismissed.

8- Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

Dated: 18-07-2006
ISB